IN THE HIGH COURT OF JUDICTURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Rita Borana. Versus State of Rajasthan & ors.

S.B. Civil Writ Petition No. 5855/2006

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Date of Order: January 22, 2007

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. M.S. Singhvi, for the petitioner.
Mr. Rameshwar Dave, Deputy Govt. Advocate.

BY THE COURT:

Heard learned counsel for the parties.

The matter comes up for order on the interim relief.

By the order dated 16-10-2006, the non-petitioners were restrained from holding disciplinary inquiry in pursuance of the memorandum Annx.5 dated 1-3-2006. The order dated 16.10.2006 is made absolute till final disposal of the writ petition.

By the instant writ petition under Article 226 of the Constitution of India, the petitioner seeks quashing of the charge sheet Annx.5 dated 1-3-2006 and also seeks direction to the non-petitioners to accept the unconditional resignation tendered by her resigning her services and declaring that she ceases to be

an employee of the non-petitioners on submitting the unconditional resignation.

I have heard learned counsel for the parties.

It is contended by the learned counsel for the petitioner that the petitioner has served only for a period of three years and thereafter resigned the post by tendering unconditional resignation to the non-petitioners vide Annx.6 dated 27-3-2006, which was sent to the non-petitioners by registered post and the same has not been disputed by the non-petitioners in the reply to the writ petition. Instead of accepting the unconditional resignation tendered by the petitioner, the non-petitioners initiated inquiry on the ground that the petitioner remained willful absent from the duty and left the headquarters without permission.

In my view, the averments made in unconditional resignation are in clear terms that the petitioner sought to resign the post on account of advance-pregnancy and not in a position to move out at a distance place of Bangalore and, therefore, she tendered the unconditional resignation requesting the non-petitioners to issue necessary orders on the unconditional resignation submitted by her. The non-petitioners came with the case that the resignation cannot be accepted for the reason that the petitioner left the headquarters without obtaining permission.

From the facts disclosed in the writ petition, which

remained undisputed to the extent that the petitioner, at the relevant time, was in the advanced stage of pregnancy and, therefore, it was not possible for her to seeking the permission before leaving the headquarters. It appears that the non-petitioners were insisting upon her to move to Bangalore and under these circumstances, the petitioner thought it proper to resign the post without mentioning any condition therein. In such circumstances, the non-petitioners were not justified in declining to accept the unconditional resignation, as also in initiating disciplinary inquiry against the petitioner. In this view of the matter, the writ petition deserves to be allowed.

In the result, the writ petition is allowed. The non-petitioners are directed to accept the unconditional resignation tendered by the petitioner vide Annx.6 dated 27-3-2006 forthwith and the disciplinary inquiry initiated against her vide Annx.5 dated 1-3-2006 stands quashed. There shall be no order as to costs.

(H.R. PANWAR), J.

mcs